

REMARKS

Status of the Claims

Claims 1-4 and 6-13 are canceled; claim 5 is currently amended; and new claims 14-16 are added.

Claim 5 has been amended so that it no longer recites a method for "preventing" hypertension, but a method for "inhibiting elevated blood pressure." Claim 5 has also been amended to recite the limitations originally recited in canceled claims 7-9. Support for this amendment is found, for instance, in the original claims.

Claims 5 and 10 have been amended for improved grammar.

New claims 14 - 16 have been added. These claims depend from claims 5, and specify that the lower weight of the claimed range is 5g, 10g and 25g, respectively. Support for the 5g and 10g weights is found on page 17, lines 17-20 in the Specification, and support for the 25g weight is found on page 20, lines 1-5 of the Specification.

No new matter has been added.

Interview Summary

Applicants and Applicants' representative thank the Examiners for the courtesies extended in the telephonic interview held on October 9, 2007. In the interview, the enablement and prior art rejections were discussed. Agreement was reached that Applicants' amending claim 5 so that it no longer recites a method for "preventing" hypertension, but a method for "inhibiting elevated blood pressure," traverses the enablement rejection. Although the prior art rejections were discussed, no final agreement was reached.

1. Claim Rejections Under 35 USC §112, First Paragraph - Enablement

The Examiner has rejected claims 1-9 as allegedly not enabled (Office Action, page 2). Applicants point out that claims 1-4 and 6-13 have been canceled and claim 5 has been amended to recite a method for "inhibiting the elevation of blood pressure." In view of these cancellations and amendments, Applicants submit that the rejection is overcome.

2. Claim Rejections Under 35 USC §102(a)

2.1 Kondo et al.

The Examiner has rejected claims 1, 4-6, 9-10 and 13 as allegedly anticipated by Kondo et al. (2001). Applicants respectfully traverse.

Applicants have submitted herewith sworn English translations of Japanese patent application Nos. 2000-394632 and 2001-298211, which were filed on December 26, 2000 and September 27, 2001, respectively. Applicants have also submitted herewith a Rule 1.131 Declaration.

Applicants point out that the inventive entities for the instant application and Japanese patent application Nos. 2000-394632 and 2001-298211 are the same, and that the filing dates for these Japanese patent applications, which are constructive reduction to practice dates for the presently claimed subject matter (see, for instance Example 9 and Figure 9 of each Japanese application), antedate the Kondo et al. publication date of December, 2001. Accordingly, Kondo et al. is not an anticipating reference for the present application, and this rejection is overcome.

2.2 Jones

The Examiner has rejected claims 1-3, 5-8 and 10-12 as allegedly anticipated by Jones (www.folkmed.ucla.edu) under 35 USC §102(a). Applicants respectfully traverse.

Applicants submit that this rejection is improper for several reasons. Should the Examiner intend to rely on this website record as a §102(a) "publication," Applicants point out that there is no associated publication date that indicates when this entry record was posted on the World Wide Web. (See the "record detail 3 5290" printout of this website record enclosed with this paper). Given that there is no publication date for this record entry, Applicants submit that it cannot be used as a publication under §102(a).

Should the Examiner intend to rely upon this website record as evidence of §102(a) "known or used by others," Applicants point out that the document is unreliable hearsay, and it is improper to impose a §102(a) rejection on unreliable evidence.

For the foregoing reasons, the Examiner has failed to meet his burden of production for imposing a §102(a) rejection based upon the Jones website record entry. Accordingly, Applicants respectfully request reconsideration and withdrawal of this anticipation rejection.

3. Claim Rejections Under 35 USC §102(b)

The Examiner has rejected claims 1-3, 5-8 and 10-12 as allegedly anticipated by Bragg et al. (1998) (Office Action, page 6). Applicants respectfully traverse.

Applicants point out that, as admitted by the Examiner, Bragg teaches a method for reducing high blood pressure to near normal levels in 48 hours by oral ingestion of apple cider vinegar, followed by the Bragg healthy lifestyle (a program consisting of physical, mental, emotional, social and spiritual components). Applicants submit that the 48 hour apple cider drinking period described by Bragg equals two days. Following the two-day apple cider vinegar ingestion period, Bragg teaches the use of physical, mental, emotional, social and spiritual techniques for controlling high blood pressure.

Accordingly, the Examiner's statement that "Bragg does not teach a specific consecutive number of days of use," is inaccurate. (Office action, page 6) In fact, Bragg teaches a 48 hour apple cider vinegar ingestion regimen. In contrast, the presently claimed method for inhibiting elevated blood pressure involves at least a three week period of ingesting acetic acid, acetate ion and/or acetate. In addition, Bragg does not teach or suggest an effective threshold dose of 0.5 – 5.0 grams of acetic acids for inhibiting elevated blood pressure as presently claimed. For these reasons, Applicants submit that Bragg fails to anticipate the presently amended claim 5 and new claims 14-16, drawn to methods for inhibiting elevated blood pressure by ingesting specified amounts of apple cider vinegar each day for at least three weeks. Accordingly, Applicants respectfully request reconsideration and withdrawal of this anticipation rejection.

4. Claim Rejections Under 35 USC §103

The Examiner has rejected claims 4, 9 and 13 as allegedly obvious over Bragg. (Office Action, page 7). Applicants respectfully traverse.

As discussed above in the anticipation section, Bragg fails to teach several elements and limitations of the presently claimed invention. The Examiner has therefore failed to establish a *prima facie* case of obviousness, and Applicants respectfully request reconsideration and withdrawal of this rejection.

In addition, Applicants point out that determining the presently claimed amounts and periods of acetic acids ingestion for effectively inhibiting elevated blood pressure required innovative experimental testing, including clinical trials, by Applicants. (See Examples on pages 12 – 27 of the Specification). Because these determinations required substantial innovative experimentation, the presently claimed method for inhibiting elevated blood pressure is non-obvious over Bragg.

5. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request allowance of all the claims, which define subject matter that meets statutory patentability requirements.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) respectfully petition(s) for a three (3) month extension of time for filing a reply in connection with the present application, and the required fee is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: October 9, 2007

Respectfully submitted,

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